

ELISA HYMAN, P.C.

July 21, 2021

BY ECF

The Honorable Robert W. Lehrburger, U.S.M.J.
United States District Court - Southern District of New York
500 Pearl St.
New York, NY 10007

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DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/21/2021

Re: *A.C. et al., v. New York City Department of Education, et al.*,
20-cv-4807 (JMF)

Dear Judge Lehrburger:

I represent the Plaintiffs in the above-referenced action and am writing jointly to respectfully request an adjournment of the settlement conference currently scheduled for July 28, 2021 and a corresponding adjournment of today's deadline for the parties to submit their pre-conference submissions and Attendance Acknowledgment Forms. Docket Entry 45. This is the parties' fourth adjournment request, and the Court has granted the parties' prior requests.

This is an action *inter alia* pursuant to the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400 *et seq.*, in which Plaintiff A.C. alleges that Defendants failed to implement impartial hearing orders over the course of several school years with regards to Plaintiff J.V., a young man with multiple disabilities who is deaf and blind. As a result of his health conditions, J.V. has missed an extensive amount of school due to hospitalizations.

Defendants have provided Plaintiffs with an initial service accounting and Plaintiffs have requested additional information. Additionally, Plaintiffs believe that limited discovery from a nonparty, non-public school that the Student attended during some of the school years in question is necessary to craft a global settlement demand. The parties propose serving the non-party discovery no later than July 30, 2021.

Additionally, Plaintiffs intend to seek to amend the complaint to add claims concerning the 2019-2020 school year, Impartial Hearing Case # 184037, which was initially pled in the original complaint. Since the filing of the original complaint, however, there has been a subsequent decision in Case # 184037. Plaintiffs propose providing Defendants with a proposed amended complaint no later than August 9, 2021. Defendants will inform Plaintiffs whether they consent to the amended complaint no later than August 16, 2021. If Defendants consent, Plaintiffs will file the amended complaint no later than August 20, 2021. If Defendants oppose the amended complaint, Plaintiffs respectfully request leave to file a motion to amend the complaint no later than September 10, 2021; Defendants will file their opposition no later than October 1, 2021; Plaintiffs will file their reply no later than October 15, 2021.

At this time, the parties believe that a settlement conference with Your Honor is premature. For these reasons, the parties are respectfully requesting an adjournment *sine die* of the settlement conference currently scheduled for July 28, 2021 and endorsement of the above schedule concerning an amended complaint. The parties propose submitting an updated status report no later than September 10, 2021.

Thank you for Your Honor's consideration of this request.

Respectfully Submitted,

Erin O'Connor

Erin O'Connor, Of Counsel
The Law Office of Elisa Hyman, P.C.
Counsel for the Plaintiffs

cc: Philip Frank, Esq., Counsel for Defendants, via ECF

SO ORDERED:

7/21/2021


HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE